

Sewerage and Water Board of New Orleans
Request for Arbitration for a Hazard Mitigation Project
At the Eastbank Wastewater Treatment Plant
FEMA-1603-DR-LA
Docket # CBCA 1758-FEMA

RECEIVED
2009 NOV 18 2:40
OFFICE OF
CONTRACT ADMINISTRATION



RESPONSE OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY TO
ARBITRATION REQUEST OF THE SEWERAGE AND WATER BOARD OF
NEW ORLEANS
NEW ORLEANS, LA

The Federal Emergency Management Agency ("FEMA") hereby respectfully submits its Response to the Request for Arbitration of Project Worksheet ("PW") 16335 made by Sewerage and Water Board of New Orleans ("Board").

On October 19, 2009, FEMA received the request of the Board for arbitration of FEMA's decision to deny its request for a Section 406 Hazard Mitigation Project at the Eastbank Wastewater Treatment Plant ("EBWTP"). The project scope and costs are outlined in PW 16335. The estimated cost of the Hazard Mitigation Project is \$12,262,072.

FEMA has discretionary authority under Section 406 of the Stafford Act and 44 CFR §206.226(e), to provide cost-effective hazard mitigation measures related to the restoration of damaged facilities. Response and Recovery Policy 9526.1, *Hazard Mitigation Funding Under Section 406 (Stafford Act)*, requires that section 406 hazard mitigation measures be directly related to, and incorporated in, the repair of eligible disaster-related damage. In this case, floodwaters overtopped the berm and caused over \$50 million in damage to the EBWTP. The sole purpose of the berm is to protect the EBWTP from floods. The Board's proposal includes raising the height of an existing

berm that surrounds the EBWTP from six to eight feet to protect the plant from future flooding.

FEMA concurs that increasing the height of the berm from six feet to eight feet to protect the EBWTP is an eligible Section 406 hazard mitigation measure. Therefore, FEMA will prepare a version to Project Worksheet 16335 and obligate the amount of \$12,262,072 for the requested Section 406 Hazard Mitigation Project.

FEMA, therefore, respectfully requests this panel dismiss the Board's request as moot.

Respectfully submitted on this 16th day of November 2009 by



Elizabeth A. Zimmerman
Assistant Administrator
Disaster Assistance Directorate
Federal Emergency Management Agency

Cc: Jason Higginbotham
Director of Emergency Management
Sewerage and Water Board of New Orleans

Mark Riley
Deputy Director
LA Governor's Office of Homeland Security and Emergency Preparedness

Gary Jones
Acting Regional Administrator
Federal Emergency Management Agency Region VI



FEMA

November 17, 2009

BY HAND-DELIVERY

Clerk of the Board
Civilian Board of Contract Appeals
1800 M Street, N.W.
6th Floor
Washington, D.C. 20036

DOCKET NUMBER: CBCA- 1758- FEMA

Dear Sir or Madam:

Please find attached the Response of Federal Emergency Management Agency (FEMA) to the arbitration request submitted by Sewerage and Water Board of New Orleans and filed as CBCA-1758-FEMA. FEMA approves the Sewerage and Water Board's request for \$12,262,072 for a hazard mitigation project at the East Bank Wastewater Treatment Plant and will prepare a project worksheet to obligate the funds. FEMA therefore requests that the Applicant's Request be dismissed.

Please add the following Office of Chief Counsel contacts for all notices and correspondence to FEMA related to the arbitration hearing: Linda M. Davis, Associate Chief Counsel – Program Law Division, 202-646-3327 or lindam.davis@dhs.gov; and Kim A. Hazel, Senior Counsel – Program Law Division, 202-646-4501 or kim.hazel@dhs.gov.

Very truly yours,

Elizabeth A. Zimmerman
Assistant Administrator
Disaster Assistance Directorate
DHS/Federal Emergency Management Agency
500 C St., S.W.
Washington, D.C. 20472

Sewerage and Water Board of New Orleans
Request for Arbitration for a Hazard Mitigation Project
At the Eastbank Wastewater Treatment Plant
FEMA-1603-DR-LA
Docket # CBCA 1758-FEMA

RESPONSE OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY TO
ARBITRATION REQUEST OF THE SEWERAGE AND WATER BOARD OF
NEW ORLEANS
NEW ORLEANS, LA

The Federal Emergency Management Agency ("FEMA") hereby respectfully submits its Response to the Request for Arbitration of Project Worksheet ("PW") 16335 made by Sewerage and Water Board of New Orleans ("Board").

On October 19, 2009, FEMA received the request of the Board for arbitration of FEMA's decision to deny its request for a Section 406 Hazard Mitigation Project at the Eastbank Wastewater Treatment Plant ("EBWTP"). The project scope and costs are outlined in PW 16335. The estimated cost of the Hazard Mitigation Project is \$12,262,072.

FEMA has discretionary authority under Section 406 of the Stafford Act and 44 CFR §206.226(e), to provide cost-effective hazard mitigation measures related to the restoration of damaged facilities. Response and Recovery Policy 9526.1, *Hazard Mitigation Funding Under Section 406 (Stafford Act)*, requires that section 406 hazard mitigation measures be directly related to, and incorporated in, the repair of eligible disaster-related damage. In this case, floodwaters overtopped the berm and caused over \$50 million in damage to the EBWTP. The sole purpose of the berm is to protect the EBWTP from floods. The Board's proposal includes raising the height of an existing

berm that surrounds the EBWTP from six to eight feet to protect the plant from future flooding.

FEMA concurs that increasing the height of the berm from six feet to eight feet to protect the EBWTP is an eligible Section 406 hazard mitigation measure. Therefore, FEMA will prepare a version to Project Worksheet 16335 and obligate the amount of \$12,262,072 for the requested Section 406 Hazard Mitigation Project.

FEMA, therefore, respectfully requests this panel dismiss the Board's request as moot.

Respectfully submitted on this 16th day of November 2009 by



Elizabeth A. Zimmerman
Assistant Administrator
Disaster Assistance Directorate
Federal Emergency Management Agency

Cc: Jason Higginbotham
Director of Emergency Management
Sewerage and Water Board of New Orleans

Mark Riley
Deputy Director
LA Governor's Office of Homeland Security and Emergency Preparedness

Gary Jones
Acting Regional Administrator
Federal Emergency Management Agency Region VI



FEMA

November 17, 2009

BY HAND-DELIVERY

Clerk of the Board
Civilian Board of Contract Appeals
1800 M Street, N.W.
6th Floor
Washington, D.C. 20036

DOCKET NUMBER: CBCA- 1758- FEMA

Dear Sir or Madam:

Please find attached the Response of Federal Emergency Management Agency (FEMA) to the arbitration request submitted by Sewerage and Water Board of New Orleans and filed as CBCA-1758-FEMA. FEMA approves the Sewerage and Water Board's request for \$12,262,072 for a hazard mitigation project at the East Bank Wastewater Treatment Plant and will prepare a project worksheet to obligate the funds. FEMA therefore requests that the Applicant's Request be dismissed.

Please add the following Office of Chief Counsel contacts for all notices and correspondence to FEMA related to the arbitration hearing: Linda M. Davis, Associate Chief Counsel – Program Law Division, 202-646-3327 or lindam.davis@dhs.gov; and Kim A. Hazel, Senior Counsel – Program Law Division, 202-646-4501 or kim.hazel@dhs.gov.

Very truly yours,

A handwritten signature in cursive script that reads "Elizabeth A. Zimmerman".

Elizabeth A. Zimmerman
Assistant Administrator
Disaster Assistance Directorate
DHS/Federal Emergency Management Agency
500 C St., S.W.
Washington, D.C. 20472

cc: To the Applicant:

Mr. Jason Higginbotham, LEM
Director of Emergency Management
Sewerage and Water Board of New Orleans
635 St. Joseph Street
New Orleans, LA 70165

To the State:

Mr. Paul W. Rainwater
Governor's Authorized Representative
Governor's Office of Homeland Security and Emergency Preparedness
7667 Independence Boulevard
Baton Rouge, LA 70806

To the Region:

Mr. Gary Jones
Acting Regional Administrator
800 N. Loop 288
Denton, TX 76209